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EXAMINER

DANIEL JR, WILLIE J

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2617

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/084,432
Filing Date: February 28, 2002
Appellant(s): DE LOYE ET AL.

Kelly Hyndman (Reg. No.: 39,234)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 18 June 2008 appealing from the Office action mailed 01 November 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is partially correct.

Therefore, the summary of claimed subject matter contained in the brief is deficient. 37

CFR 41.37(c)(1)(v) requires the summary of claimed subject matter to include: (1) a

concise explanation of the subject matter defined in each of the independent claims

involved in the appeal, referring to the specification by page and line number, and to the

drawing, if any, by reference characters and (2) for each independent claim involved

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in the appeal and for each dependent claim argued separately, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters. The brief is deficient because each limitation of the independent claims is not explicitly and separately mapped to the specification by page(s), line number(s), and drawing(s).

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

A. Patent Documents

5,999,813	LU et al.	12-1999
6,771,661	CHAWLA et al.	8-2004

(9) Grounds of Rejection Applicable to the Appealed Claims

The following ground(s) of rejection are applicable to the appealed claims:

A. Claim Rejections - 35 USC § 103

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Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lu et al.** (hereinafter Lu) (**US 5,99,813**) in view of **Chawla et al.** (hereinafter Chawla) (**US 6,771,661 B1**).

Regarding **claim 1**, Lu discloses a cellular cPBX system (200) which reads on the claimed “wireless corporate communication system” comprising a private branch exchange (cPBX 206), at least one base station (210) coupled with said private branch exchange (206), and a plurality of mobile station units (MS 212) which reads on the claimed “corporate radio terminals” under the range of said base station (210) (see col. 6, lines 42-55; Figs. 3A-4A, 7), wherein

said private branch exchange (206) comprises means (254, RR - radio resource manager) for controlling the amount of resources allocated to each of said corporate radio terminals (212) (see col. 18, lines 44-60; col. 6, lines 44-55; col. 7, lines 4-10; col. 8, lines 11-24, 41-47; col. 10, lines 1-3; col. 5, lines 16-28; Figs. 3A-4A, 7), where the cPBX allocates resources to mobile stations (212) in the cPBX system (206). Lu further discloses having the feature said base station (BTS 210) (see Fig. 3A), where the BTS provides the resources to the mobile units (212). Lu does not specifically disclose having the feature said base station comprising means for sending a message indicating to said corporate radio terminals the amount of resources they are allocated. However, the examiner maintains that the feature said base station comprising means for sending a message indicating to said corporate radio terminals the amount of resources they are allocated was well known in the art, as taught by Chawla.

In the same field of endeavor, Chawla discloses the feature said base station

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comprises means for sending (e.g., automatically and dynamically) a allocation information which reads on the claimed “message” indicating to said voice, facsimile, computer terminal (210, 211, 212) which reads on the claimed “corporate radio terminals” the amount of bandwidth which reads on the claimed “resources” they are allocated (see col. 10, line 65 - col. 11, line 34; col. 11, lines 55-62; col. 12, lines 6-25; col. 13, lines 6-20; Figs. 3-5), where the data communications device (201-1, e.g., PBX) provides bandwidth to the terminals (210) of the communication network (200) in which each terminal is provided with allocation information and the base station and means would be inherent for communicating over a wireless transmission link as evidenced by the fact that one of ordinary skill in the art would clearly recognize (see col. 12, lines 22-25). The system automatically and dynamically adjusts the amount of bandwidth for communication sessions according to situations such as times or events.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Lu and Chawla to have the feature said base station comprising means for sending a message indicating to said corporate radio terminals the amount of resources they are allocated, in order to allow data communication devices to automatically and dynamically adjust bandwidth, as taught by Chawla (see col. 12, lines 19-32; col. 8, lines 37-46).

Regarding **claim 2**, Lu discloses a private branch exchange adapted to be coupled to a base station (210), said private branch exchange (206) comprising a BSC (208) which reads on the claimed “switch” establishing communications to/from corporate radio terminals (212) located under the range of said base station (210) (see col. 7, lines

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4-10; col. 8, lines 11-24,41-47; col. 10, lines 1-3; Figs. 3A-4A, 7), wherein said private branch exchange (206) comprises:

means (254) for controlling the amount of resources allocated to each of said corporate radio terminals (212) (see col. 18, lines 44-60; col. 6, lines 44-55; col. 7, lines 4-10; col. 8, lines 11-24,41-47; col. 10, lines 1-3; col. 5, lines 16-28; Figs. 3A-4A, 7), where the cPBX allocates resources to mobile stations (212) in the cPBX system (206). Lu further discloses having the feature said base station (BTS 210) (see Fig. 3A), where the BTS provides the resources to the mobile units (212). Lu does not specifically disclose having the features means for sending messages to said base station comprising the amount of resources allocated to each of said corporate radio terminal, wherein said base station sends a message which indicates to each of said corporate radio terminals the amount of resources it is allocated. However, the examiner maintains that the feature means for sending messages to said base station comprising the amount of resources allocated to each of said corporate radio terminal, wherein said base station sends a message which indicates to each of said corporate radio terminals the amount of resources it is allocated was well known in the art, as taught by Chawla.

Chawla further discloses the features means for sending allocation information which reads on the claimed “messages” to said base station comprising the amount of resources (bandwidth) allocated to each of said corporate radio terminal (210) (see col. 10, line 65 - col. 11, line 34; col. 11, lines 55-62; col. 12, lines 6-25; col. 13, lines 6-20; Figs. 3-5, 7 “ref. 500”), where the data communications device (201-1, e.g., PBX) provides bandwidth to the terminals (210) according to the bandwidth information (e.g.,

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event, times, topology changes, or occurrences) in which the base station and means would be inherent for communicating over a wireless transmission link,

wherein said base station sends (e.g., automatically and dynamically) a message which indicates to each of said corporate radio terminals (210) the amount of resources it (210) is allocated (see col. 10, line 65 - col. 11, line 34; col. 11, lines 55-62; col. 12, lines 6-25; col. 13, lines 6-20; Figs. 3-5), where the data communications device (201-1, e.g., PBX) provides bandwidth to the terminals (210) of the communication network (200) in which each terminal is provided with allocation information and the base station would be inherent for communicating over a wireless transmission link as evidenced by the fact that one of ordinary skill in the art would clearly recognize (see col. 12, lines 22-25). The system automatically and dynamically adjusts the amount of bandwidth for communication sessions according to situations such as times or events.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Lu and Chawla to have the feature means for sending messages to said base station comprising the amount of resources allocated to each of said corporate radio terminal, wherein said base station sends a message which indicates to each of said corporate radio terminals the amount of resources it is allocated, in order to allow data communication devices to automatically and dynamically adjust bandwidth, as taught by Chawla (see col. 12, lines 19-32; col. 8, lines 37-46).

Regarding **claim 3**, Lu discloses a private branch exchange (206) according to claim 2, further comprising a registry (252) which reads on the claimed “database”

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storing user profiles of said corporate radio terminals (212) (see col. 7, line 59 - col. 8, line 10; col. 9, lines 8-13; col. 27, lines 34-45; Figs. 3A-4A, 7, 13A), where the HLR/VLR registry (database) maintain information of the user for providing services in which the profile would be obvious. Lu does not specifically disclose having the feature said amount of resources allocated to a corporate radio terminal depending on the profile of said corporate radio terminal stored in said database. However, the examiner maintains that the feature said amount of resources allocated to a corporate radio terminal depending on the profile of said corporate radio terminal stored in said database was well known in the art, as taught by Chawla.

Chawla further discloses the feature said amount of resources (bandwidth) allocated to a corporate radio terminal (210) depending on the profile of said corporate radio terminal (210) stored in said network policy resource allocation table (400) which reads on the claimed "database" (see col. 13, line 7 - col. 14, line 58; col. 10, line 65 - col. 11, line 34; col. 11, lines 55-62; col. 12, lines 6-25; Figs. 3-5, 6 "ref. 400", 7), where the data communications device (201-1, e.g., PBX) has a table (400) for indicating the resources to be allocated to the terminals (210) such as during a typical twenty-four hour period in which the profile would be inherent for providing an individual terminal with resources.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Lu and Chawla to have the feature said amount of resources allocated to a corporate radio terminal depending on the profile of said corporate radio terminal stored in said database, in order to allow data

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communication devices to automatically and dynamically adjust bandwidth, as taught by Chawla (see col. 8, lines 37-46).

Regarding **claim 4**, Lu discloses a cPBX system (200) (see Figs. 3A-4A, 7), where the system (200) is connected to a public network (202). Lu does not specifically disclose having the feature wherein said amount of resources allocated to a corporate radio terminal communicating with a public communication network over said corporate communication system depends on the effective amount of data destined to said corporate radio terminal and received at the interface between said corporate communication system and said public communication network. However, the examiner maintains that the feature wherein said amount of resources allocated to a corporate radio terminal communicating with a public communication network over said corporate communication system depends on the effective amount of data destined to said corporate radio terminal and received at the interface between said corporate communication system and said public communication network was well known in the art, as taught by Chawla.

Chawla further discloses the feature wherein said amount of resources allocated to a corporate radio terminal (210) communicating with a public communication network (e.g., Internet, extranets, or WAN's) over said corporate communication system (200) depends on the effective amount of data destined to said corporate radio terminal (210) and received at the interface between said corporate communication system (200) and said public communication network (e.g., Internet, extranets, or WAN's) (see col. 10, line 65 - col. 11, line 34; col. 11, lines 55-62; col. 12, lines 6-32; Figs. 3-5, 7), where the data

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communications device (201-1, e.g., PBX) provides resources to be allocated to the terminals (210) for communicating with connected networks.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Lu and Chawla to have the feature wherein said amount of resources allocated to a corporate radio terminal communicating with a public communication network over said corporate communication system depends on the effective amount of data destined to said corporate radio terminal and received at the interface between said corporate communication system and said public communication network, in order to allow data communication devices to automatically and dynamically adjust bandwidth, as taught by Chawla (see col. 8, lines 37-46).

Regarding **claim 5**, the combination of Lu and Chawla discloses every limitation claimed, as applied above (see claim 2), in addition Lu further discloses a private branch exchange (206) according to claim 2, wherein said amount of resources allocated to a corporate radio terminal (212) depends on the amount of traffic in said private branch exchange (206) (see col. 8, lines 11-24, 41-47; col. 18, lines 44-60; Figs. 3A-4A, 7).

Regarding **claim 6**, Lu discloses every limitation claimed as applied above in claim 2. Lu does not specifically disclose having the feature wherein said amount of resources allocated to a corporate radio terminal is dynamically updated during a communication to/from said corporate radio terminal. However, the examiner maintains that the feature wherein said amount of resources allocated to a corporate radio terminal is dynamically updated during a communication to/from said corporate radio terminal

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was well known in the art, as taught by Chawla.

Chawla further discloses the feature wherein said amount of resources allocated to a corporate radio terminal (210) is dynamically updated during a communication to/from said corporate radio terminal (210) (see col. 10, line 65 - col. 11, line 34; col. 11, lines 55-62; col. 12, lines 6-25,33-57; Figs. 3-5, 7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Lu and Chawla to have the feature wherein said amount of resources allocated to a corporate radio terminal is dynamically updated during a communication to/from said corporate radio terminal, in order to allow data communication devices to automatically and dynamically adjust bandwidth, as taught by Chawla (see col. 8, lines 37-46).

Regarding **claim 7**, Lu discloses a base station (210) adapted to be coupled to a private branch exchange (206) comprising a TRX module (530) which reads on the claimed “module” for sending data which reads on the claimed “messages” to corporate radio terminals (212) under the range of said base station (210) (see col. 19, lines 34-38,61; col. 20, lines 1-27; Figs. 3A-4A, 7-9). Lu further discloses having the feature said base station (BTS 210) (see Fig. 3A), where the BTS provides the resources to the mobile units (212). Lu does not specifically disclose having the feature indicating the amount of resources each of said corporate radio terminal is allocated, said amount of resources being determined by said private branch exchange. However, the examiner maintains that the feature indicating the amount of resources each of said corporate radio terminal is allocated, said amount of resources being determined by said private branch exchange

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was well known in the art, as taught by Chawla.

Chawla further discloses the feature indicating the amount of resources each of said corporate radio terminal (210) is allocated, said amount of resources being determined by said private branch exchange (201-1) (see col. 10, line 65 - col. 11, line 34; col. 11, lines 55-62; col. 12, lines 6-25; col. 13, lines 6-20; Figs. 3-5, 7), where the system automatically and dynamically adjusts the amount of bandwidth for communication sessions according to situations such as times or events in which each terminal is provided with allocation information (or message).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Lu and Chawla to have the feature indicating the amount of resources each of said corporate radio terminal is allocated, said amount of resources being determined by said private branch exchange, in order to allow data communication devices to automatically and dynamically adjust bandwidth, as taught by Chawla (see col. 8, lines 37-46).

Regarding **claim 8**, Lu discloses every limitation claimed as applied above in claim 1. Lu does not specifically disclose having the feature wherein said amount of resources allocated to each of said corporate radio terminal is dynamically updated during a communication to/from said corporate radio terminal. However, the examiner maintains that the feature wherein said amount of resources allocated to each of said corporate radio terminal is dynamically updated during a communication to/from said corporate radio terminal was well known in the art, as taught by Chawla.

Chawla further discloses the feature wherein said amount of resources allocated to

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each of said corporate radio terminal (210) is dynamically updated during a communication to/from said corporate radio terminal (210) (see col. 10, line 65 - col. 11, line 34; col. 11, lines 47-62; col. 12, lines 6-25,33-57; Figs. 3-5, 7), where the resources is dynamically adjusted for the terminals, for example, during times of day for business cycle.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Lu and Chawla to have the feature wherein said amount of resources allocated to each of said corporate radio terminal is dynamically updated during a communication to/from said corporate radio terminal, in order to allow data communication devices to automatically and dynamically adjust bandwidth, as taught by Chawla (see col. 12, lines 19-32; col. 8, lines 37-46).

Regarding **claim 9**, Lu discloses every limitation claimed as applied above in claim 7. Lu does not specifically disclose having the feature wherein said amount of resources is dynamically updated during a communication to/from said corporate radio terminal. However, the examiner maintains that the feature wherein said amount of resources is dynamically updated during a communication to/from said corporate radio terminal was well known in the art, as taught by Chawla.

Chawla further discloses the feature wherein said amount of resources is dynamically updated during a communication to/from said corporate radio terminal (210) (see col. 10, line 65 - col. 11, line 34; col. 11, lines 47-62; col. 12, lines 6-25,33-57; Figs. 3-5, 7), where the amount of resources is dynamically adjusted.

Therefore, it would have been obvious to one of ordinary skill in the art at the

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time the invention was made to combine the teachings of Lu and Chawla to have the feature wherein said amount of resources allocated is dynamically updated during a communication to/from said corporate radio terminal, in order to allow data communication devices to automatically and dynamically adjust bandwidth, as taught by Chawla (see col. 12, lines 19-32; col. 8, lines 37-46).

(10) Response to Argument

A. Brief Description of wPBX (wireless private branch exchange)

WPBX is coupled to a base unit and a public network. The base unit includes an antenna to facilitate communication with a plurality of handsets. In addition, the wPBX preferably performs *mobility management, call control, and radio resource management of its mobile handsets* that is transparent to the public network. (for above paragraph - see Lu reference, col. 1, lines 10-29; col. 2, lines 40 et seq.)

B1. Argument of Claim 1 (see pg. 12, item VII, section A, 1st full par. (¶) of brief)

Appellant argues - ...*private branch exchange...comprises means for controlling the amount of resources allocated to each of said corporate radio terminals...are not taught...*

B2. Response to argument of B1

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections

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are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Furthermore, regarding appellant's arguments above (see B1), the Examiner respectfully disagrees. Appellant has failed to interpret and appreciate the combined teachings of the prior art Lu and Chawla that clearly discloses the claimed feature(s) as would be clearly recognized by one of ordinary skill in the art. As a note, appellant **admits** that Lu **appears to disclose** a private branch exchange, a base station, and terminals, **as well as** allocation of resources to the terminals...(see pg. 14, item VII, section A-1, 4th full par. (¶) of brief). In particular, Lu discloses the argument(s) as related to the claimed feature(s)

said private branch exchange (206) comprises means (254, RR - radio resource manager) for controlling the amount of resources allocated to each of said corporate radio terminals (212) (see col. 18, lines 44-60; col. 6, lines 44-55; col. 7, lines 4-10; col. 8, lines 11-24, 41-47; col. 10, lines 1-3; col. 5, lines 16-28; Figs. 3A-4A, 7), where the cPBX allocates resources to mobile stations (212) in the cPBX system (206) in which one of ordinary skill in the art would clearly recognize. As further support in the same field of endeavor, Chawla discloses the argument(s) as related to the claimed feature(s)

said private branch exchange (e.g., PBX 201) comprises means (e.g., bandwidth management mechanism) for controlling the amount of resources (e.g., bandwidth) allocated to each of said corporate radio terminals (e.g., 210-215) (see col. 10, line 65 - col. 11, line 11; col. 11, lines 21-27; col. 12, lines 3-18; Figs. 3 & 5), where the data communications device (201-1, e.g., PBX) provides bandwidth (e.g., automatically and

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dynamically) to the terminals (e.g., 210-215) of the communication network (200) in which one of ordinary skill in the art would clearly recognize. Therefore, the combination(s) of the reference(s) Lu and Chawla as addressed above more than adequately meets the claim limitations.

C1. Argument of Claim 1 (see pg. 12, item VII, section A, 1st full par. (¶) of brief)

Appellant argues - ...*base station comprises means for sending a message indicating to said corporate radio terminals the amount of resources they are allocated...*are not taught... (also, see pgs. 12-17, item VII, section A-1 - A-2 of brief)

C2. Response to argument of C1

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Furthermore, regarding appellant's arguments above (see C1), the Examiner respectfully disagrees. Appellant has failed to interpret and appreciate the combined teachings of the prior art Lu and Chawla that clearly discloses the claimed feature(s) as would be clearly recognized by one of ordinary skill in the art. As a note, appellant **admits** that Lu **appears to disclose** a private branch exchange, a base station, and terminals, **as well as** allocation of resources to the terminals...(see pg. 14, item VII, section A-1, 4th full par. (¶) of brief). In particular, Lu discloses the argument(s) as

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related to the claimed feature(s)

said base station (BTS 210) (see col. 5, lines 15-26; col. 7, lines 42-50; col. 25, lines 14-26; Figs. 3A, 8, & 2), where the cPBX via the BTS provides the resources to the mobile units (212) and TRX (160-162) of BTS exchange data and signaling information with the mobile station (MS). In addition, Lu discloses how the physical chassis can be configured to perform individual BTS, BSC, or cPBX function, or any combination of these subsystems (see col. 7, lines 4-10, 42-50; col. 19, lines 20-37; col. 25, lines 14-26; Figs. 3A, 8, & 2). As further support in the same field of endeavor, Chawla discloses the argument(s) as related to the claimed feature(s)

said base station comprises means for sending (e.g., automatically and dynamically) allocation information which reads on the claimed “*a message*” indicating to *said* terminals (e.g., 210-215 - voice, facsimile, computer) which reads on the claimed “*corporate radio terminals*” the bandwidth which reads on the claimed “*amount of resources*” they are allocated (see col. 10, line 65 - col. 11, line 34; col. 11, lines 55-62; col. 12, lines 6-25; col. 13, lines 6-20; Figs. 3-5), where the data communications device (201-1, e.g., PBX) provides bandwidth (e.g., automatically and dynamically) to the terminals (210) of the communication network (200) in which each terminal is provided with allocation information. The base station and means would be inherent for communicating over a wireless transmission link as evidenced by the fact that one of ordinary skill in the art would clearly recognize (see col. 12, lines 22-25). The system automatically and dynamically adjusts the amount of bandwidth for communication sessions according to requests or conditions such as times or events. Chawla clearly

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discloses the claimed feature bandwidth allocation information (e.g., RSVP) which reads on the claimed “a message” (see col. 11, lines 17-20; col. 16, lines 30-40; col. 2, line 43 - col. 3, line 12), where a host (e.g., employee terminal) via a RSVP request (or conventional RSVP message) requests a specific amount of bandwidth that is allocated according to a specific amount of bandwidth requested for a currently active session or a future session. The request for bandwidth can be provided with an indicator (or message) such as accept or deny in which one of ordinary skill in art would clearly recognize that if accepted an equivalent amount requested is provided (see col. 16, lines 58-63).

Essentially, a stream or session requires a certain amount of bandwidth (see col. 15, lines 36-39). Therefore, the combination(s) of the reference(s) Lu and Chawla as addressed above more than adequately meets the claim limitations.

D1. Argument of Claim 1 (see par. bridging pgs. 15-16, item VII, section A-2 of brief)

Appellant argues - ...*distinguishes between data communication devices and terminals 210-215, and therefore does not teach or suggest configuring the terminals 210-215 with bandwidth allocation information...*

D2. Response to argument of D1

Regarding applicant's argument above, Chawla discloses data communication devices (e.g., PBX 201-1) allocates bandwidth and communicates with terminals (e.g., 210-215) via data links (e.g., 205 wireless) (see col. 11, lines 55-62; col. 12, lines 6-25; Figs. 3-5). Furthermore, Chawla provides a reservation protocol which allows

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communication devices to request bandwidth reservation according to requirements of QoS, times, events, or communication type in which there must be an acknowledgement indicating the amount of bandwidth is reserved. Chawla clearly discloses the claimed feature bandwidth allocation information (e.g., RSVP) which reads on the claimed “a message” (see col. 11, lines 17-20; col. 16, lines 30-40; col. 2, line 43 - col. 3, line 12), where a host (e.g., employee terminal) via a RSVP request (or conventional RSVP message) requests a specific amount of bandwidth that is allocated according to a specific amount of bandwidth requested for a currently active session or a future session. The request for bandwidth can be provided with an indicator (or message) such as accept or deny in which one of ordinary skill in art would clearly recognize that if accepted an equivalent amount of bandwidth requested is provided (see col. 16, lines 58-63). Essentially, a stream or session requires a certain amount of bandwidth (see col. 15, lines 36-39).

Chawla further discloses computer terminal (215) performs high speed backup in which 4 Mbps must be allocated for a particular period and 2 Mbps for another period (see col. 13, lines 28-42), where the computer terminal (215) must know how much bandwidth is allocated in order to perform backup. For example, a computer terminal communicating internet traffic typically has a modem in which there is a meter indicating transmission parameters such as data and/or baud rate. Another example, a communication terminal attempting to access a traffic channel can receive a busy signal which corresponds to no resources available. The system automatically and dynamically adjusts the amount of bandwidth for communication sessions according to requests or

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conditions such as times or events.

E1. Argument of Claims 2 and 7 (see par. bridging pgs. 17-18, item VII, section B of brief)

Appellant argues - ...*patentable...for reasons analogous...be withdrawn...*

E2. Response to argument of E1

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding appellant's arguments above (see E1), the Examiner respectfully disagrees. Appellant has failed to interpret and appreciate the combined teachings of the applied prior art references Lu and Chawla that clearly discloses the claimed feature(s) as would be clearly recognized by one of ordinary skill in the art. Consequently, all applied references were well known prior art prior to the filing of the instant application.

Therefore, the claims are addressed for the same reasons as addressed above (see B1-D2).

In addition, the appellant failed to respond to *item 4* of the office action mailed on 27 February 2008. Since the appellant did not respond with information to distinguish the claimed feature(s) from the applied references, the Examiner interprets that the feature(s) are common knowledge and taught by the applied references.

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F1. Argument of Claim 3 (see pgs. 18, item VII, section C of brief)

Appellant argues - ...*said amount of resources allocated to a corporate radio terminal depending on the profile of said corporate radio terminal stored in said database...fails to teach or suggest...*

F2. Response to argument of F1

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding appellant's arguments above (see F1), the Examiner respectfully disagrees. Appellant has failed to interpret and appreciate the combined teachings of the applied prior art references Lu and Chawla that clearly discloses the claimed feature(s) as would be clearly recognized by one of ordinary skill in the art. In particular, Lu discloses the argument(s) as related to the claimed feature(s)

a private branch exchange (206) according to claim 2, further comprising a registry (252) which reads on the claimed "database" storing user profiles of said corporate radio terminals (212) (see col. 7, line 59 - col. 8, line 10; col. 9, lines 8-13; col. 27, lines 34-45; Figs. 3A-4A, 7, 13A), where the HLR/VLR registry (database) maintain information of the user for providing services. As further support in the same field of endeavor, Chawla discloses the argument(s) as related to the claimed feature(s) said amount of resources (bandwidth) allocated to a corporate radio terminal (210) depending on the profile of said

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corporate radio terminal (210) stored in said network policy resource allocation table (400) which reads on the claimed “database” (see col. 13, line 7 - col. 14, line 58; col. 10, line 65 - col. 11, line 34; col. 11, lines 55-62; col. 12, lines 6-25; Figs. 3-5, 6 “ref. 400”, 7), where the data communications device (201-1, e.g., PBX) has a table (400) for indicating the resources to be allocated to the terminals (210) such as during a typical twenty-four hour period in which the profile would be inherent for providing an individual terminal with resources. Therefore, the combination(s) of the reference(s) Lu and Chawla as addressed above more than adequately meets the claim limitations.

G1. Argument of Claims 6, 8, and 9 (see pgs. 18, item VII, section D of brief)

Appellant argues - ...*said amount of resources allocated to a corporate radio terminal depending on the profile of said corporate radio terminal stored in said database...fails to teach or suggest...*

G2. Response to argument of G1

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding appellant's arguments above (see G1), the Examiner respectfully disagrees. Appellant has failed to interpret and appreciate the combined teachings of the applied prior art references Lu and Chawla that clearly discloses the claimed feature(s) as

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would be clearly recognized by one of ordinary skill in the art. Consequently, all applied references were well known prior art prior to the filing of the instant application.

Therefore, the claims are addressed for the same reasons as addressed above (see B1-D2).

H. Response to Argument(s) of Claims 1-9

Due to the common knowledge of the applied well known prior art, the examiner's conclusion of obviousness is **not** based upon improper hindsight reasoning. It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Furthermore, the Examiner respectfully disagrees with appellant's argument(s). Appellant has failed to interpret and appreciate the combined teachings of the prior art (i.e., applied references) that clearly discloses the claimed feature(s) as would be clearly recognized by one of ordinary skill in the art. Consequently, all applied references were well known prior art prior to the filing of the instant application.

In the present application, the Appellant is reminded that the Examiner relies on the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

First, the Examiner considered the Lu reference alone and when compared with the claims 1-9 at issue in the present application, the Examiner found a difference(s) in the wireless communications system of the Lu reference and the present application.

Second, the Examiner considered the similar teachings found in the other applied reference(s) Chawla that accomplished the claimed features of claims 1-9 not taught by Lu. The applied reference(s) Chawla teach of a wireless communications system which is in the same field of endeavor as the Lu reference. However, the Examiner also considered that for *a person with the common knowledge and ordinary skill in the art* of wireless communications systems would have obviously accomplished and developed the specific teachings and/or advantages of the apparatus and method claimed by the appellant by considering the systems accomplished by the teachings of the applied reference(s) Chawla.

Finally, the Examiner, after considering *the common knowledge available to a person of ordinary skill in the art* of wireless communications systems, concluded that Lu's teachings when modified by the teachings of Chawla would render the present application obvious by the combined teachings of the references, as set forth in the rejections.

(11) Related Proceeding(s) Appendix

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No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

(12) Conclusion

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/WJD,Jr/

Willie J. Daniel, Jr.
WJD,Jr

15 August 2008

Conferees:

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